

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-22 are currently being prosecuted. The Examiner is respectfully requested to reconsider her rejections in view of the amendments and remarks as set forth below.

CHANGES TO THE TITLE

The Examiner requires a new title, which is indicative of the invention. By way of the present Amendment, applicants have adopted the title suggested by the Examiner.

The Examiner objected the abstract as being too long and using legal phraseology. By way of the present Amendment, applicants have rewritten the abstract to remove the legal terms and also to shorten the abstract. The abstract is now a single paragraph.

The Examiner objected to the specification as needing new headings. By way of the present amendment, applicants have inserted these headings into the specification.

DRAWINGS

The Examiner objected to the drawings as having reference characters not mentioned in the specification. The Examiner also pointed out that various reference characters are used in Fig. 1 on one hand and Fig. 2 and 3 on the other hand that have different elements associated therewith. The Examiner also required that the label "prior art" be added to Fig. 1. By way of the present amendment, applicants have submitted a substitute Fig. 1 to correct these problems. All of the reference numerals in Fig. 1 which are not described in the specification have been removed, including numbers 4A and 6. Applicants have also changed the reference numerals

that are also used in Figs. 2 and 3 in both Figure 1 and in the specification to avoid this problem. The label "prior art" has also been added. Fig. 2 has also been amended to remove reference character 11C as suggested by the Examiner. Accordingly, applicants submit that the drawings are now in compliance with the rules.

CLAIM OBJECTIONS

Examiner objected to claims 1-3, 5, 6, 13 and 18 due to various informalities. In most instances, applicants have adopted the suggestion of the Examiner. In claim 1 line 22 applicants have instead changed "moveable" to "movably". Accordingly, these objections are believed to be overcome.

REJECTIONS UNDER 35 USC § 112

Claims 1-22 stand rejected under 35 U.S.C § 112 second paragraph as being indefinite. This rejection is respectfully traversed.

In regard to claim 1, lines 16 and 17, the Examiner felt that it was unclear as to which opening was being referred to. Applicants have now utilized the phrase "one of said outward openings".

In regard to claim 4, the Examiner points out that it is impossible for the catheter probe to be movable if the two dimensions are equal. Applicants have now removed the phrase "equal or." In regard to claims 11 –13, Applicants have changed the dependency of the claims to provide antecedent basis. In regard to claim 16, applicants have removed the "e.g." phrase to

avoid this problem. This also overcomes the objection in regarding claim 17. In claim 18 applicants have removed the "and/or" language. The dependency of claims 18 and 20-22 has been changed to depend from claim 8 so as to provide antecedent basis. Claim 19 has been amended to use "a" in regard to "the catheter probe drive means". Accordingly, applicants submit that all these objections are overcome.

REJECTIONS UNDER 35 USC § 103

Claims 1-4, 6, 7, 11 and 12 stand rejected under 35 U.S.C. § 103 as being obvious over Edwards et al. (U.S. Pat. No. 5,536,240) in view of Singh (U.S. Pat. No. 6,599,237). This rejection is respectfully traversed.

The Examiner states that Edwards et al. shows a catheter probe 182 with a longitudinal bore in an outlet opening 126. The Examiner admits that Edwards et al. does not teach the use of a urethral probe.

The Examiner replies on Singh to teach a urethral probe to accommodate other surgical instruments. The Examiner points out that this probe acts like an artificial protective lining with a body opening. The Examiner feels it would be obvious to use a urethral probe taught by Singh with a catheter probe of Edwards et al.

Applicants note that the prior art, such as Edwards et al., teaches a catheter probe being inserted within the urethra towards the prostate and being provided with a longitudinal bore and an outlet opening located near the prostate. A guide tube having a sharp end is advanced through the bore, which penetrates the urethral wall by way of a outlet opening. Radioactive seeds can

be implanted by using the guide tube. However, the prior art required that the guide tube in the catheter probe must be manipulated if further seeds are being implanted at different locations. This relocation or reorientation of the catheter probe creates severe discomfort as the outer surface of the probe is in direct contact with the inner wall of the urethra.

The present invention avoids these problems by providing a urethral probe which is first inserted and is maintained at a static fixed position during the entire treatment. The catheter probe is movably accommodated within the urethral probe. Accordingly, when the catheter probe must be moved, contact between the catheter probe and the urethral wall is avoided causing less discomfort for the patient.

The Singh reference shows a urethral probe which is inserted and provided with the longitudinal bore for insertion of further medical tools. However, as seen in Figs. 2 and 2A, longitudinal rupture lines 71 or longitudinal slits 24A-24B are provided to allow the urethral probe to expand in diameter when a larger medical tool is inserted. This is especially seen in Fig. 6 where medical tool 8 is inserted into the urethral probe 10, where the tool has a larger diameter than the internal dimension of the probe. Applicants submit that the arrangement of Singh is completely different than that of the present invention where the urethral probe is stationary and acts as a fixed guide for the catheter probe. In this manner, the catheter probe can be reoriented in order to position several radioactive seeds at different locations which require a repositioning of the longitudinal and rotational directions. However, since the urethral probe is static, no discomfort is felt by the patient. These features are not shown in Singh which merely describes a static guidance probe and a small diameter which is capable of accommodating a

medical tool of larger dimensions by including a longitudinal slit or longitudinal rupture line. Applicants submit that the teachings of Singh, even if combined with Edwards et al., do not teach the present claimed invention.

Applicants have amended claim 1 to describe in a positive manner the urethral probe, which was previously recited in the characterized phrase at the end of the claim. Thus, the claim now describes the urethral probe, the catheter probe, the catheter tube and a means for delivering radiation energy. While Edwards et al. teaches the catheter probe and Singh teaches a urethral probe, Applicants submit that even the combination of references does not show all the features that are claimed in claim 1. Accordingly, applicants submit that claim 1 is allowable.

Claims 2-20 depend from claim 1 and as such are also considered to be allowable. In addition each of these claims include other features that make them additionally allowable.

Claim 5 stands rejected under 35 U.S.C. § 103 as being obvious over Edwards et al. and Singh and further in view of Shiber (U.S. Pat. No. 5,135,531). Claim 8-10, 18 and 19 stand rejected under 35 U.S.C. § 103 as being obvious over Edwards et al. and Singh and further in view of Kindlein et al. (U.S. Pat. No. 6,454,696). Claim 13 stands rejected under 35 U.S.C. § 103 as being obvious over Edwards et al. and Jagpal (U.S. Pat. No. 5,257,979) and further in view of Webster (U.S. Pat. No. 5,569,220). Claims 14 - 17 stand rejected under 35 U.S.C. § 103 as being obvious over Edwards et al., Jagpal and Webster and further in view of Tiller et al. (US 2003/0091641). Claims 20 and 21 stand rejected under 35 U.S.C. § 103 as being obvious over Edwards et al. and Singh and further in view of Bradshaw et al. (U.S. Pat. No. 5,139,473). Claim 22 stands rejected under 35 U.S.C. § 103 as being obvious over Edwards et al. and Singh

and further in view of Hung et al. (U.S. Pat. No 6,391,026). These rejections are respectfully traversed.

The Examiner has added additional references to teach limitations found in the dependant claims. Applicants submit that these claims remain allowable based on their dependency from allowable claim 1. Thus, the Shiber reference has been cited to show a drive means. Kindlein has been cited to show a wire and energy emitting source. Jagpal teaches a urethral probe. Webster teaches a flexible catheter of reinforced mesh. Tiller et al. teaches a variety of materials. Bradshaw teaches the use of radioactive energy sources. Hung et al. teaches a method using an energy emitting source including an antenna. Applicants submit that even if these references are combined with Edwards et al. and Singh these claims would remain allowable.

CONCLUSION

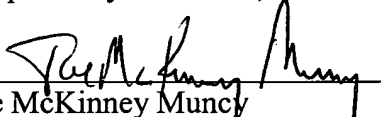

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, reconsideration of the rejections and allowance of all the claims are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert F. Gnuse, Registration No. 27,295 at (703) 205-8000 the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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Attachments